APPEAL NO. 032085
FILED SEPTEMBER 17, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq*. (1989 Act). A contested case hearing was held on July 15, 2003. The hearing officer resolved the disputed issues by deciding that the appellant (claimant) did not have disability beginning September 18, 2002, and continuing through the date of the hearing resulting from the injury sustained on _____, and that the employer did make a bona fide offer of employment (BFOE) to the claimant entitling the respondent (carrier) to adjust post-injury weekly earnings from January 4, 2003, through the date of the hearing. The claimant appealed, contending that the great weight of the evidence is contrary to the hearing officer's decision and asserting that the hearing officer erred in determining that she did not sustain a compensable injury on _____, and that she did not have disability from January 2003, through the present. The carrier responded, urging affirmance.

DECISION

Affirmed.

The parties stipulated that the claimant sustained a compensable injury on _____. Whether the claimant sustained a compensable injury on _____, was not in dispute. At issue was whether the employer made a BFOE to the claimant entitling the carrier to adjust post-injury weekly earnings and whether the claimant had disability resulting from the injury sustained on _____.

The evidence reflects that a BFOE was tendered to the claimant on January 4, 2003, which was accepted by the claimant. Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 129.6(c) (Rule 129.6(c)) sets out the requirements for a BFOE. In the present case, we find no error in the hearing officer's finding that the employer did make a bona fide offer of employment to the claimant.

Whether or not the claimant had disability as a result of her compensable injury was a factual determination for the hearing officer to resolve. Section 410.165(a) provides that the hearing officer, as finder of fact, is the sole judge of the relevance and materiality of the evidence as well as the weight and credibility that is to be given the evidence. It was for the hearing officer, as trier of fact, to resolve the inconsistencies and conflicts in the evidence. Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ). When reviewing a hearing officer's decision for factual sufficiency of the evidence, we should reverse such decision only if it is so contrary to the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); Pool v. Ford Motor Co., 715 S.W.2d 629, 635 (Tex. 1986). Applying this standard, we find no grounds to reverse the challenged findings of the hearing officer.

The decision and order of the hearing officer are affirmed.

The true corporate name of the insurance carrier is **AMERICAN HOME ASSURANCE COMPANY** and the name and address of its registered agent for service of process is

CORPORATION SERVICE COMPANY
800 BRAZOS, SUITE 750, COMMODORE 1
AUSTIN, TEXAS 78701.

_____
Margaret L. Turner
Appeals Judge

CONCUR:

_____
Chris Cowan
Appeals Judge

_____
Gary L. Kilgore
Appeals Judge